

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AARON SENNE, et al.,
Plaintiffs,

v.

KANSAS CITY ROYALS BASEBALL
CORP., et al.,
Defendants.

Case No. 14-cv-00608-JCS

**ORDER TO SHOW CAUSE WHY
ADMINISTRATIVE MOTION TO FILE
CERTAIN DOCUMENTS UNDER SEAL
IN SUPPORT OF JOINT LETTER
BRIEF SHOULD NOT BE DENIED**

Plaintiffs have filed an Administrative Motion to File Under Seal Certain Documents in Support of Joint Letter Brief Regarding Defendants' Documentary Production and Interrogatory Responses ("Motion"). *See* Docket No. 463. In the Motion, Plaintiffs seek to file under seal deposition excerpts of Shane Turner and Christopher Gwynn on the basis that this testimony was designated as "Confidential" under the parties' Stipulated Protective Order. Pursuant to Civil Local Rule 79-5(e)(1), Defendants filed a declaration in support of the Motion on December 28, 2015. The declaration states, in relevant part, that the redacted portions of the two depositions:

are . . . entitled to protection under the law because they contain confidential and proprietary information with respect to the manner in which the Designating Parties evaluate baseball players, how they compile those evaluations and the systems where those evaluations are maintained. Such information is not publicly available.

Docket No. 464 (Bloom Decl.) ¶ 7.

Defendants' declaration is not sufficient to meet the "good cause" standard that applies to requests to seal documents filed in connection with discovery disputes. *See In re Midland Nat. Life Ins. Co. Annuity Sales Practices Litig.*, 686 F.3d 1115, 1119 (9th Cir. 2012) ("a particularized showing of 'good cause' under Federal Rule of Civil Procedure 26(c) is sufficient to preserve the

1 secrecy of sealed discovery documents attached to non-dispositive motions”). To meet this
2 standard, “the party seeking protection bears the burden of showing specific prejudice or harm will
3 result if no protective order is granted.” *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307
4 F.3d 1206, 1210-11 (9th Cir. 2002) (citations omitted). Where a party demonstrates that
5 particularized harm will result from disclosure of information to the public, the court must
6 balance the public and private interests to decide whether protection from disclosure is necessary.
7 *Id.*

8 “‘[S]ources of business information that might harm a litigant’s competitive standing’ may
9 often warrant protection under seal.” *In re NCAA Student-Athlete Name & Likeness Licensing*
10 *Litig.*, No. 09-CV-01967 CW NC, 2013 WL 1997252, at *1 (N.D. Cal. May 13, 2013) (quoting
11 *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)). Here, however, the declaration
12 supplied by Defendants does not identify any harm to their competitive standing that will result
13 from public disclosure of the testimony for which protection is sought. Nor does it identify any
14 other specific harm that will result from its disclosure. As a result, the Court is unable to
15 determine whether there is good cause for permitting the deposition excerpts attached to the
16 Motion to be filed under seal.

17 Defendants may file, no later than **January 6, 2016**, a supplemental declaration in support
18 of the Motion addressing any specific harm that may result from the public disclosure of the
19 information contained in the redacted portions of the Turner and Gwynn deposition excerpts.
20 Otherwise, the Motion will be denied.

21 **IT IS SO ORDERED.**

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23 Dated: December 30, 2015

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25 JOSEPH C. SPERO
26 Chief Magistrate Judge
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